



American Society for Nutrition
Excellence in Nutrition Research and Practice
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May 22, 2008

Dr. Norka Ruiz Bravo
Deputy Director, Extramural Research
National Institutes of Health
Building 1 - Shannon Bldg, 144
1 Center Dr
Bethesda, MD 20892

Re: Notice of Public Meeting and Comments on the Implementation of the NIH Public Access Policy; 73
FR 12745 (March 10, 2008)

Dear Dr Bravo:

The American Society for Nutrition is the professional scientific society dedicated to bringing together the world's top researchers, clinical nutritionists and industry to advance our knowledge and application of nutrition. Our focus ranges from the most critical details of research and application to the broadest applications in society, in the United States and around the world. ASN publishes *The American Journal of Clinical Nutrition (AJCN)* and *The Journal of Nutrition (JN)*, the two leading, peer-reviewed scientific journals in the areas of nutrition science and dietetics. ASN appreciates this opportunity to provide comment on the implementation of the NIH Public Access Policy.

ASN supports the principle of public access to science and voluntarily has taken the following significant steps to accomplish this:

- The abstracts of ASN journals are indexed in MedLine, which is accessible over the Internet from NIH's PubMed website.
- In 2000, ASN began offering free public access to articles 12 months after publication.
- By 2006, the ASN put its entire journal collection, including over 110 years of archival content, online through Stanford University's High Wire Press. Approximately 98% of online journal content is freely accessible to both subscribers and non-subscribers.
- Since 1997, the Society has included free access to the online journal collection as a membership benefit.

ASN is part of a group of more than 59 scholarly publishers who jointly developed the D.C. Principles for Free Access to Science. The DC Principles include a commitment to these forms of free access:

- Selected articles of public interest are free from the time of publication
- The full text of articles is made freely available either immediately or within months of publication, depending upon what is economically feasible for the journal
- Journals are freely available to scientists in many low-income nations

- Relevant articles are freely available to individuals in case of compassionate need, i.e. to those seeking information about their own health or that of a family member
- Public access to content is facilitated through indexing agreements with Internet search engines

ASN, like many non-profit scholarly publishers, reinvests the revenues from our journals in direct support of science through scientific meetings, research grants, educational outreach, advocacy, dissemination of information to the public, and improvements in scientific publishing. We believe our efforts constitute a sustainable approach to public access.

Notwithstanding our commitment to public access, ASN has serious concerns about the Public Access Policy currently being implemented by NIH. Our concerns are outlined below.

Administrative Burden

The new policy places a significant administrative burden on authors, institutions and publishers. The low compliance with the voluntary policy (five percent of NIH funded articles in 2006 were deposited by the author) suggests this is the case. The fact that someone, be it the publisher or the scientist, must deposit the manuscript represents time and money. In many cases, deposition of the manuscript is duplicative since they are available free of charge on the publisher's site after 12 months.

Review Articles

The inclusion of new language extending the policy to review articles is of serious concern for the following reasons: (1) the original work cited in the article, if funded by NIH, would already have been disclosed and made available; (2) review articles are not original research that could be tied to a specific NIH grant; and, (3) journals and their subscribers place a high value on review articles, as they represent unique content and include added analysis. Loss of such articles as a benefit to paid subscribers has significant financial implications.

Copyright

The inclusion of blanket requirements in grant contracts has the potential to deny authors and publishers the benefits of their copyrights, among those being the freedom to decide how and in what form their works may be distributed. Moreover, the policy as proposed by NIH may conflict with fundamental copyright principles and does not take into account the value added by publishers and editors. The NIH policy as currently proposed is not, in our opinion, consistent with the legislative mandate to implement said policy in a manner that is consistent with copyright.

Impact on not-for-profit publishers and scientific societies

The NIH has not given appropriate consideration to the potential economic impacts of its proposal on publishers and the fundamental roles and services scientific societies provide to their membership and the scientific community at-large. These impacts may be especially severe for scholarly societies and not-for-profit publishers. NIH has stated in past notices that economic and business implications of any policy changes should be taken into account, and the danger that mandated access will interfere with the ability of journals to recover costs still exists. As ASN has implemented policies to improve public access to the research it publishes, the economic impact of these new policies was carefully considered. Certain considerations influence how soon free public access is economically feasible for a particular journal. These include revenue sources, production costs, utilization patterns, time needed for cost recovery, and frequency of publication. For example, it costs on average \$3,500 to publish an article in *AJCN* or *JN*.

NIH should have the same consideration for these factors. Ironically, it is possible that the NIH plan may have the greatest deleterious impact on not-for-profit publishers who already provide some form of free access.

Societies such as ASN derive the bulk of their revenue from journal operations. The membership of these societies – the very scientists who are also NIH-funded investigators – derive important benefits from membership in these societies. Such benefits include access to scientific meetings, organization and review of abstracts, provision of continuing medical education programs, mentorship programs for young scientists, and many more. It is clear that hobbling these societies is a major unintended consequence of the current proposal, and one that is not in the interests of researchers, NIH, or the American public.

Impact on researchers

This proposal initially was intended to benefit researchers by broadening access to the scientific literature, but since the NIH policy would affect approximately 10 percent of that literature, it is not clear how helpful it would be. At the same time, journals that publish large amounts on NIH-funded research would suffer the greatest negative repercussions. If the NIH plan indeed undermines journal operations, ASN may have to scale back its publications programs or curtail the activities it supports to advance nutritional science. This could mean fewer opportunities for scientists to share research findings in a timely manner, expand collaborate projects, and train junior scientists.

Should journals like ours seek to recover lost production costs by increasing fees charged to authors, research funding also would be affected. Regardless of where the money to pay fees originates—taken from existing grant funds or charged to the research institution or funding agency—the net result is less money for research.

Conclusion

We respectfully request that NIH address the concerns as outlined above, and we urge you to fully involve publishers in the implementation of this policy. We look forward to continued dialogue on this important issue. If you have any questions, please contact John Courtney, ASN's Executive Officer, at (301) 634-7050 or jcourtney@nutrition.org.

Sincerely,



Joanne R. Lupton, PhD
President